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Presentment Date: September 9, 2013
Time: 12:00 p.m.

Objections Due: September 9, 2013
Time: 11:00 a.m.

*Attorneys for Irving H. Picard, Esq., Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

**TRUSTEE'S MOTION FOR AN ORDER APPROVING
THE RETENTION OF KELLEY, WOLTER & SCOTT, PROFESSIONAL
ASSOCIATION AS SPECIAL
COUNSEL NUNC PRO TUNC AS OF JULY 1, 2013**

Irving H. Picard ("Trustee"), as trustee for the substantively consolidated liquidation of
Bernard L. Madoff Investment Securities LLC ("BLMIS"), under the Securities Investor

Protection Act, 15 U.S.C. §§ 78aaa, et seq. (“SIPA”),¹ and the estate of Bernard L. Madoff (together, the “Debtor”), by and through his undersigned counsel, for his motion (the “Motion”) for authority to retain special counsel *nunc pro tunc* as of July 1, 2013, respectfully represents as follows:

Jurisdiction

1. This Court has jurisdiction over this Application pursuant to SIPA section 78eee(b) and 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this SIPA liquidation case and this Motion are proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for the relief sought herein are section 78eee(b)(3) of SIPA and sections 327(e), 328, 329 and 330 of the Bankruptcy Code and Fed. R. Bankr. P. 2014.

Background

3. On December 11, 2008 (the “Filing Date”),² the Securities and Exchange Commission (“SEC”) filed a complaint in the United States District Court for the Southern District of New York against defendants Bernard L. Madoff and BLMIS (together, the “Defendants”) (No. 08 CV 10791). The complaint alleged that the Defendants engaged in fraud through investment advisor activities of BLMIS.

4. On December 12, 2008, the Honorable Louis L. Stanton of the United States District Court for the Southern District of New York entered an order which appointed Lee S. Richards, Esq., as receiver (the “Receiver”).

5. On December 15, 2008, Judge Stanton entered an order pursuant to SIPA (the “Protective Decree”), which, in pertinent part:

¹ For convenience, future reference to SIPA will not include “15 U.S.C.”

² See section 78lll(7)(B) of SIPA.

- a) appointed the Trustee for the liquidation of the business of BLMIS pursuant to section 78eee(b)(3) of SIPA;
- b) appointed Baker & Hostetler LLP as counsel ("Counsel") to the Trustee pursuant to section 78eee(b)(3) of SIPA; and
- c) removed the case to this Bankruptcy Court pursuant to section 78eee(b)(4) of SIPA.

6. Issues have arisen in the State of Minnesota that require the Trustee's participation and representation by local counsel. The Trustee is litigating certain claims in the State of Minnesota which require specific knowledge of Minnesota law for which the Trustee believes the estate will best be served, and the Trustee will best be able to perform his duties, with the assistance of local counsel.

Relief Requested

7. The Trustee has determined that it will be necessary to engage local counsel to represent him in the State of Minnesota. Such legal counsel will enable the Trustee to carry out his duties in this SIPA liquidation proceeding. The Trustee, therefore, proposes to retain and employ the law firm of Kelley, Wolter & Scott, P.A. ("Kelley Wolter") as its special counsel with regard to the Litigation effective as of April 5, 2013.

8. The Trustee seeks to retain Kelley Wolter as special counsel because of its knowledge and expertise in the laws of the State of Minnesota, including, but not limited to, trust and estate matters.

9. The services of Kelley Wolter are necessary and essential to enable the Trustee to execute faithfully his duties herein.

10. Kelley Wolter has indicated a willingness to act on the Trustee's behalf to render the foregoing professional services.

11. The Trustee submits that Kelley Wolter's provision of professional services to the Trustee is permissible under section 78eee(b)(3) of SIPA and is in the best interest of the Debtor's estate and customers and creditors.

12. To the best of the Trustee's knowledge, and except as disclosed in the declaration of disinterestedness of Steven E. Wolter (the "Wolter Declaration"), executed on August 29, 2013 and annexed hereto as Exhibit A, the partners of Kelley Wolter are disinterested pursuant to section 78eee(b)(3) of SIPA and do not hold or represent any interest adverse to the Debtor's estate in respect of the matter for which Kelley Wolter is to be retained. Kelley Wolter's employment and retention is necessary and in the best interests of the Debtor's estate and its customers and creditors.

13. Kelley Wolter will be compensated at agreed upon rates, listed below, which reflect a reduction of its normal rates by ten percent (10%). Applications for compensation to Kelley Wolter will be filed with this Court pursuant to applicable statutes and rules. Kelley Wolter's rate information is as follows:

Attorney	Normal Rates	Agreed Upon Rates
Doug Kelley	\$650.00	\$585.00
Steven E. Wolter	\$500.00	\$450.00
Dan Scott	\$500.00	\$450.00
Josiah Lamb	\$350.00	\$315.00

14. SIPC has no objection to this Motion and, pursuant to SIPA section 78eee(b)(3), SIPC specifies that the Trustee should be authorized to retain Kelley Wolter as special counsel for the purposes identified herein.

Notice

15. Notice of this Motion will be provided by U.S. Mail, postage prepaid or email to (i) all parties included in the Master Service List as defined in the Order Establishing Notice

Procedures (ECF No. 4560); (ii) all parties that have filed a notice of appearance in this case; (iii) the SEC; (iv) the IRS; (v) the United States Attorney for the Southern District of New York; and (vi) SIPC, pursuant to the Order Establishing Notice Procedures (ECF No. 4560). The Trustee submits that no other or further notice is required.

WHEREFORE, the Trustee respectfully requests that the Court enter an order substantially in the form of Exhibit B hereto, (a) granting this Motion; (b) authorizing the Trustee to employ Kelley Wolter as special counsel for the purposes described herein, *nunc pro tunc*, as of July 1, 2013; and (c) granting the Trustee such other and further relief as is just and proper.

Dated: New York, New York
August 29, 2013

Respectfully submitted,

/s/ Marc E. Hirschfield

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